der v. *Central National Bank of Boston*, 188 Mass. 25, 73 N. E. 1024; *Ashton* v. *Atlantic Bank*, 3 Allen (Mass.) 217. Where the defendant knows, as it did in the principal case from the fact that he was a guardian, that the trustee has no authority to deposit to his personal account, it is properly held liable. *Duckett* v. *National Mechanics' Bank*, 86 Md. 400, 38 Atl. 983.

BILLS AND NOTES — DEFENSES — INTOXICATION AND INSANITY. — The defendant signed a note as accommodation co-maker while in a state of complete intoxication. *Held*, that a holder in due course cannot recover. *Green* v. *Gunsten*, 142 N. W. 261 (Wis.). See NOTES, p. 164.

BILLS AND NOTES — RIGHTS OF HOLDER AGAINST GARNISHING CREDITOR OF DRAWER. — A depositor drew a check on the R. bank, for a smaller amount than his deposit, in favor of the M. bank. Before M. sent the check to R. for payment, a creditor of the depositor garnished the R. bank and M. intervened. *Held*, that the intervener is entitled to the amount of the check from the deposit in the R. bank. *Farrington* v. *F. E. Fleming Commission Co.*, 142 N. W. 297 (Neb.).

A check against a specified account, or for the whole deposit, or when accompanied by an assignment agreement, has been held to be an equitable assignment *pro tanto* of the depositor's claim. *Fortier* v. *Delgado & Co.*, 122 Fed. 604; *Taylor's Estate*, 154 Pa. St. 183, 25 Atl. 1061; *Throop Grain Elevator Co.* v. *Smith*, 110 N. Y. 83. But these are only exceptions to the common-law principle accepted in the great majority of jurisdictions that a check is not an assignment, the payee having no more right against the drawee than on any other unaccepted bill of exchange. *Hopkinson* v. *Forster*, L. R. 19 Eq. 74; *O'Connor* v. *Mechanics' Bank*, 124 N. Y. 324. A few states, including Nebraska, took the opposite view. *Fonner* v. *Smith*, 31 Neb. 107, 47 N. W. 632. If the check is not an assignment, the garnishing creditor of the depositor prevails against the holder of the check who has no claim upon the funds. *Dickenson* v. *Coates*, 79 Mo. 250; *Kuhn* v. *Warren Savings Bank*, 11 Atl. 440 (Pa.). The Negotiable Instruments Law, § 189, adopted in Nebraska, expressly provides that a check is not an assignment. Contrary to the principal case, Kentucky, which formerly held a check to be an assignment, has recognized that the adoption of this statute changed the old law. *Taylor's Adm'r* v. *Taylor's Assignees*, 78 Ky. 470; *Boswell* v. *Citizens Savings Bank*, 123 Ky. 485, 490, 96 S. W. 797, 799. The principal case follows the old minority view and is directly opposed to the express words of the Negotiable Instruments Law.

CARRIERS — DISCRIMINATION AND OVERCHARGE — MISTAKE: LIABILITY FOR NEGLIGENCE FOR QUOTING TOO HIGH A RATE BY MISTAKE. — A carrier quoted a rate to a shipper which by error was less than that published in accordance with sec. 6 of the Interstate Commerce Act. The shipper in reliance made a contract for the sale of certain cotton seed, and loaded it on cars. Later the carrier notified the shipper that a mistake had been made and quoted a new rate, which by a second mistake was higher than the published rate. The shipper refused to ship, but stated that he would have shipped at the correct rate and sued for lost profits. *Held*, that he may recover. *Aldrich* v. *Southern Ry. Co.*, 79 S. E. 316 (S. C.).

The case is unquestionably sound in holding the carrier liable for refusing to accept at a reasonable rate the shipment tendered to it. *Pickford* v. *Grand Junction Ry. Co.*, 8 M. & W. 372. The published rate is held legally to be the only reasonable one. *Texas & P. Ry. Co.* v. *Abilene Cotton Oil Co.*, 204 U. S. 426, 27 Sup. Ct. 350. The case, however, is made to depend solely on the actual tender of the goods, and recovery would have been denied if the shipper's remedy had been dependent merely on the negligence of the carrier.

There is a duty owed prospective as well as actual shippers to furnish correct information. This was probably true at common law. *Cf.* 1 WYMAN, PUBLIC SERVICE CORPORATIONS, §§ 367, 385. It is certainly true under the Interstate Commerce Act, §§ 6, 8, 9. If, however, the negligence results in the quotation of a rate lower than that published, it is impossible to save to the shipper his usual remedy, since it would enable him to get service at a discriminatory rate, thus militating against the integrity of the act. *Texas & P. Ry. Co.* v. *Mugg*, 202 U. S. 242, 26 Sup. Ct. 628; *Illinois Central R. Co.* v. *Henderson Elevator Co.*, 226 U. S. 441, 33 Sup. Ct. 176; *Poor Grain Co.* v. *Chicago, etc. Ry. Co.*, 12 I. C. C. Rep. 418, 421. See 22 HARV. L. REV. 58; 27 HARV. L. REV. 83. However, no such countervailing considerations affect the case where too high a rate is quoted. To grant the remedy does not result in discrimination. On the contrary, if no liability were incurred a higher rate would be continually quoted to unfavored shippers who practically must rely on the carriers' statement. Therefore it is submitted that the shipper should be allowed to recover for damage suffered by the carrier's negligence, even though he cannot show a substantial tender of the goods. Where there has been no tender, a question might arise as to the jurisdiction of the state court, particularly if it be held that the remedy of a prospective shipper did not exist at common law but arises by virtue of the Interstate Commerce Act. That there is such jurisdiction see *Robb* v. *Connolly*, 111 U. S. 624, 637, 4 Sup. Ct. 544; *Galveston, etc. R. Co.* v. *Wallace*, 223 U. S. 481, 32 Sup. Ct. 205. *Contra, Van Patten* v. *Chicago, etc. R. Co.*, 74 Fed. 981. See 25 HARV. L. REV. 292.

CARRIERS — PASSENGERS — STANDARD OF CARE IN SALE OF TICKETS. — The plaintiff, an illiterate, showed the defendant's ticket agent a slip of paper, and asked for a ticket to the place named thereon. The agent gave him a ticket to a different place. *Held*, that the defendant in selling tickets is bound to use only ordinary care. *Texas & N. O. R. Co.* v. *Wiggins*, 156 S. W. 1131 (Tex. Ct. Civ. App.).

The highest degree of care is exacted of a common carrier of passengers as regards the construction and maintenance of his carrying equipment. *New Jersey R. Co.* v. *Kennard*, 21 Pa. St. 203. And the same standard of care is required in operating. *Indianapolis & St. L. R. Co.* v. *Horst*, 93 U. S. 291. This extraordinary care and diligence must also be used by the carrier in protecting passengers from injury by their fellow passengers. *Flint* v. *Norwich & N. Y. Trans. Co.*, 34 Conn. 554. This is equally true as to the provision of safe means for alighting from the train on arrival at stations. See *Mo. Pac. R. Co.* v. *Wortham*, 73 Tex. 25, 10 S. W. 741. Before and after the actual carriage, the carrier should be held up to the duty of the highest degree of care to its passengers, with reference to the condition of its premises. *Gulf, C. & S. F. Ry. Co.* v. *Butcher*, 83 Tex. 309, 18 S. W. 583. *Contra, Moreland* v. *Boston & Prov. R. Corp.*, 141 Mass. 31; *Kelley* v. *Manhattan Ry. Co.*, 112 N. Y. 443. It has been laid down that the above test applies only to measures for the passenger's safety. But it has been applied as to the protection of his feelings as well. *Goddard* v. *Grand Trunk R.*, 57 Me. 202. Also in the transmission of telegrams, where obviously safety is not a consideration, the public service corporation has been subjected to this extreme liability. *Jones* v. *Western Union Tel. Co.*, 101 Tenn. 442, 47 S. W. 699. See *Fowler* v. *Western Union Tel. Co.*, 80 Me. 381, 389. The cases show that this test is not limited to any particular branch of the carrier's activities. The carrier enjoys a monopoly, receives valuable privileges from the public and performs important and necessary services for it. On account of this relation, therefore, a greater liability has been imposed, from which, it is submitted, the carrier should not be exempt, in any special branch of his service, and that in selling tickets the highest degree of care should be exacted.